

This description identifies the current known areas of risk in Wisconsin. In addition to CWD, Bovine TB has been added to the potential diseases of risk, since current research would suggest that this disease poses the most potential risk to Wisconsin's agriculture industry.

Although this description is fairly explanatory, the inclusion of counties within a 10-mile radius may need further clarification. The 10-mile radius was chosen as it is believed to be a conservative estimate of the distance a deer is likely to travel based on research in the Midwest. Although longer dispersals have been noted, 10 miles actually encompasses an average dispersal distance.

The reason entire counties have been chosen, is for ease of application and understanding. Since this rule affects hunters and non-hunters alike, county boundaries are the logical choice as a majority of people are more familiar with county boundaries than the alternatives of deer management unit boundaries or township boundaries. In addition, there are a number of counties, such as Manitowoc and Sheboygan Counties that have enacted or are considering enacting a county ordinance that prohibits the feeding of deer.

In addition to the prohibitions on baiting and feeding, this rule clarifies that the existing regulations pertaining to baiting (s. NR10.07(1)(g)) remain in effect in the counties not included in the ban.

The department continues to support a statewide ban on baiting and feeding as suggested by the scientific community as an important measure to prevent the spread of the disease or the potential establishment of the disease into new areas. However, if a statewide ban is not supported by the legislature, this emergency rule is the best alternative currently available until such a time that a permanent rule can be implemented.



P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-2056

APR 02 2004

P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

March 31, 2004

Scott Hassett, Secretary  
Department of Natural Resources  
101 South Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921

Dear Secretary Hassett:

The Joint Committee for the Review of Administrative Rules met in Executive Session on March 31, 2004 and adopted the following motion:

**Emergency Rule NR 10**

**Relating to baiting and feeding**

That, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends NR 10 at the request of Department of Natural Resources by 60 days.

Motion Carried

Pursuant to s. 227.24(2)(c) Stats, we are notifying the Secretary of State and the Revisor of Statutes of the Committee's action through copies of this letter.

Sincerely,

A handwritten signature in black ink that reads "JOE LEIBHAM".

Senator Joseph Leibham  
Senate Co-Chair

A handwritten signature in black ink that reads "Glenn Grothman".

Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:mjd

**Joint Committee for Review of Administrative Rules - March 31, 2004**

**Department of Natural Resources Request for Emergency Rule Extension - WM-37-03(E)  
Kurt A. Thiede, Regulation and Policy Specialist, Bureau of Wildlife Management**

**Good morning Mr. Chairman and members of the Committee. On behalf of the Department of Natural Resources I thank you for considering our request for a 60-day extension for Emergency Rule WM-37-03 (E). This emergency rule currently prohibits deer baiting and feeding in 24 southern Wisconsin counties that the department has identified to be at the highest risk for the possible transfer of Chronic Wasting Disease (CWD) and Bovine TB between animals, specifically white-tailed deer.**

**We have been before this committee numerous times in the past year on this very issue so I will be very brief. This emergency rule prohibits deer baiting and feeding in any county that is entirely or partially included in a DNR established CWD eradication or herd reduction zone. It also prohibits these activities in entire counties where a portion of the county falls within a 10-mile radius of a captive or wild animal that has tested positive for CWD or Bovine TB in the past 8 years.**

**This emergency rule is a stop gap measure to assure that baiting and feeding is not allowed in the areas where CWD or TB has been confirmed in captive or free ranging cervids, until permanent rules can be developed. If this extension is granted, it will extend the effective period of this rule beyond April 7 and it will give the department time to promulgate a new emergency rule and begin drafting permanent rules required in AB 519, should the bill be signed by the Governor.**

**If the extension is not granted there will be a lapse in the regulation of baiting and feeding in a crucial area of the state where these activities could lead to the further spread of CWD.**

**If you have any questions, I would be happy to attempt to answer them for you. Again, thank you for your time and consideration of this request.**



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

SEP 29 2004

September 24, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Order No. WM-35-04(E)  
Regulation of baiting and feeding to control CWD

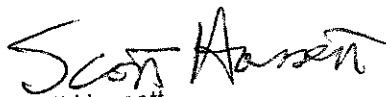
Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Order No. WM-35-04(E) for 60 days. This emergency order pertaining to regulation of baiting and feeding to control and manage chronic wasting disease (CWD) and bovine tuberculosis took effect on June 10, 2004 and is to expire on November 7, 2004.

The extension of this emergency rule is needed so that the rules will remain in effect during the fall and winter hunting seasons while the Department promulgates a permanent rule.

A copy of the emergency order is attached. If you have any questions, please contact Kurt Thiede of the Bureau of Wildlife Management at 267-2452 or Tim Andryk of the Bureau of Legal Services at 264-9228.

Sincerely,

  
Scott Hassett  
Secretary

Attach.

cc: Presiding Officers  
Kurt Thiede - WM/6  
Tim Andryk - LS/5.  
Carol Turner - LS/5

Joint Committee for the Review of Administrative Rules

October 21, 2004

Request Extension of Emergency Order WM-35-04(E) Regulation of Baiting and Feeding to Control CWD

Kurt Thiede, Bureau of Wildlife Management, WDNR

The Department of Natural Resources is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Order Number WM-35-04(E) for 60 days. This emergency order, pertaining to the regulation of baiting and feeding to control and manage chronic wasting disease (CWD) and bovine tuberculosis, took effect on June 10, 2004 and is to expire on November 7, 2004.

The extension of this emergency rule is needed so that enforceable rules remain in effect during the remainder of the 2004 fall and winter deer hunting seasons while the Department promulgates a permanent rule. This emergency rule creates rules that allow the statutory intent to be enforced.

This emergency rule extension will continue the ban on the placement of feed for deer in those areas at highest risk for CWD, and to meet the requirements to ban baiting and feeding in these counties as established in 2003 Wisconsin Act 240. This emergency rule is similar to emergency rules that were in effect during the 2003 hunting season, which banned baiting and feeding in 24 southern Wisconsin counties at greatest risk for CWD, which expired on June 6, 2004.

Like the previous emergency rule and as required by Act 240, this emergency rule bans baiting and feeding in any county where CWD eradication zones or herd reduction zones have been established in the county or a portion of the county; or a CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county; or if the county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997. Additional counties meeting these criteria can be included in the ban by secretary's order. Under the current secretary's order baiting and feed of deer is prohibited in 26 southern Wisconsin counties.

Outside these counties, deer baiting is allowed within the parameters established by 2003 Wisconsin Act 240 and this rule. Bait or feed may be placed and used for hunting deer outside of the banned counties, except no person may place, use or hunt over bait during the closed season for hunting deer. For the purpose of this rule, the closed season will not include the Friday prior to the deer bow or gun seasons. So, hunters will be allowed to place legal feeding sites on the day prior to the opening of the deer bow and gun seasons. Deer hunters may not place, use or hunt over bait or feed in excess of 2 gallons at any feeding site. No person may place, use or hunt over more than 1 feeding site on each contiguous parcel of platted land that is less than 40 acres in size or on each full 40 acre quarter quarter section of platted land. Parcels or tracts of land that do not touch but are separated only by a town,

county or state highway are considered contiguous. Additionally, the rule clarifies that feeding sites may not be located within 100 yards of any other feeding site located on the same parcel of platted land.

This emergency rule clarifies various terms and conditions that were established in Act 240. These clarifications are necessary in order to enforce and explain the rules and regulations pertaining to deer and bear baiting and deer feeding for the remainder of the state where baiting and feeding is not banned. Definitions of terms used but not clearly defined in statute, include animal part or animal by-product, feeding site, owner-occupied residence, business, bait and feed. Additionally, terms created specifically for these rules are defined and include definitions of "hunt over", platted land, small mammals, decoy, bird feeding device or structure and scent.

Bear baiting rules are clarified and certain regulations are put in place to assure that the unintentional feeding or baiting of deer does not occur. Bear baits may only be placed, used or hunted over from April 15 through the end of the bear season. Baits for bear may not be in excess of 10 gallons at any feeding site. Additionally, bait must be totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevent deer from accessing the bait material. However, liquid scent used for hunting of bear or training bear dogs does not need to be enclosed.

Act 240 also extended the department's authority to regulate feeding of wildlife. This rule establishes restrictions for wildlife feeding and specifically deer feeding for areas where the feeding of deer is not prohibited. Like baiting, feeding for deer and other animals is prohibited in any county where CWD eradication zones or herd reduction zones have been established in the county or a portion of the county; or a CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or if the county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

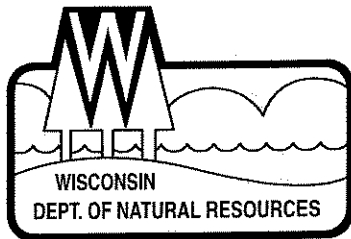
In other areas, no one may place more than 1 feeding site for each owner-occupied residence or business and the feeding site may not contain more than 2 gallons of feeding material. This site must also be within 50 yards of any owner occupied residence or business. The feeding site or feed material may not be located within 100 yards from a roadway, having a posted speed limit of 45 miles per hour or more.

Other general provisions include a prohibition on any feed material that contains animal parts or animal by-products. Elevated or automatic feeders that are designed to deposit feed to the ground are also prohibited.

The rule also clarifies that there are a number of circumstances where feeding is allowed statewide including:

1. Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. However, if the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.
2. Feeding of wild animals, other than deer, elk or bear, by hand if the feed is placed not more than 30 feet away from the person feeding, and the person feeding makes all reasonable attempts to clean up the unconsumed food before moving a distance greater than 30 feet from the deposited food.
3. Food deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.
4. Standing crops planted and left standing as wildlife food plots that may be used by wild animals.
5. The placement of plain water for drinking or for bird baths.
6. The use of scents, provided the material is not accessible for consumption by deer or elk.
7. Food or bait material placed or used for fish, reptiles, amphibians or arthropods, provided the material is not accessible to bear, deer or elk.

That concludes the summary of the emergency rule. As I mentioned at the beginning of my testimony, we are requesting a 60-day extension. If you have any questions at this time I would be happy to answer them.



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

October 8, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E)  
And FH-21-04(E)

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Orders No. FH-14-04(E), FH-16-04(E), FH-17-04(E) and FH-21-04(E) for an additional 60 days. These emergency orders pertain to:

FH-14-04(E) repealing ch. NR 322, revising ch. NR 300 and creating ch. NR 310 relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways. The Department is seeking extension of only the portions relating to chs. NR 300 and 322. This order expires on November 14, 2004.

FH-16-04(E) repealing and recreating ch. NR 323 relating to fish and wildlife habitat structures in navigable waterways. This order expires on November 14, 2004.

FH-17-04(E) revising ch. NR 325 relating to boathouses and fixed houseboats in navigable waterways. This order expires on November 14, 2004.

FH-21-04(E) repealing NR 340.02(2), (8) and (19) and creating NR 341 relating to regulation of grading on the bank of a navigable waterways. This order expires on December 14, 2004.

The extension of these emergency rules is needed so that the Department can continue to enforce these regulations in a uniform manner while the permanent rules are being promulgated.

A copy of the emergency rules is attached. If you have any questions, please contact Ms. Mary Ellen Vollbrecht of the Bureau of Fisheries Management and Habitat Protection at 264-8554 or Michael Cain of the Bureau of Legal Services at 266-2177.

Sincerely,

Scott Hassett  
Secretary





P.O. Box 7882  
MADISON, WI 53707-7882  
(608) 266-2056

P.O. Box 8952  
MADISON, WI 53708-8952  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

October 22, 2004

The Honorable Alan Lasee  
Senate President  
State Capitol Building, Room 220 South  
Madison, WI 53702

The Honorable John Gard  
Assembly Speaker  
State Capitol Building, Room 211 West  
Madison, WI 53702

Dear President Lasee and Speaker Gard:


The Joint Committee for the Review of Administrative Rules met in Executive Session on October 21, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.24(2)(a), Stats., recommends the extension of the following emergency rules for a period of 60 days:

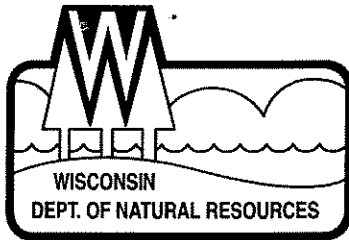
NR 10 and 19	Relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.
NR 300, and 322	Relating to timelines and procedures for exemptions, general permits, and individual permits for activities in navigable waterways.
NR 323	Relating to fish and wildlife habitat structures in navigable waterways.
NR 325	Relating to boathouses and fixed boathouses in navigable waterways.
NR 340.02(2)(8)(19), 341	Relating to regulation of grading on the bank of a navigable waterway.

Sincerely,

  
Senator Joseph Leibham  
Senate Co-Chair

  
Representative Glenn Grothman  
Assembly Co-Chair

JKL:GSG:pv



## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

December 8, 2004

Honorable Joseph Leibham, Chair  
Joint Committee for Review of Administrative Rules  
Room 409 South  
State Capitol

Honorable Glenn Grothman, Chair  
Joint Committee for Review of Administrative Rules  
Room 15 North  
State Capitol

Re: Extension of Emergency Order No. WM-35-04(E)  
Regulation of baiting and feeding to control CWD

Gentlemen:

The Department of Natural Resources, under s. 227.24(2), Stats., is requesting the Joint Committee for Review of Administrative Rules to extend Natural Resources Board Emergency Order No. WM-35-04(E) for a second 60 days. This emergency order pertaining to regulation of baiting and feeding to control and manage chronic wasting disease (CWD) and bovine tuberculosis took effect on June 10, 2004 and was extended until January 5, 2005.

The extension of this emergency rule is needed so that the rules will remain in effect during the winter hunting seasons while the Department promulgates a permanent rule. The permanent rule was adopted by the Natural Resources Board today and will be forwarded for legislative review in January.

A copy of the emergency order is attached. If you have any questions, please contact Kurt Thiede of the Bureau of Wildlife Management at 267-2452 or Tim Andryk of the Bureau of Legal Services at 264-9228.

Sincerely,

Scott Hassett  
Secretary

Attach.

cc: Presiding Officers  
Kurt Thiede – WM/6  
Tim Andryk – LS/5  
Carol Turner – LS/5

**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD REPEALING,  
RENUMBERING, AMENDING, AND CREATING RULES**

The Wisconsin Natural Resources Board proposes an order to repeal NR 10.07(1)(g) and 10.11(1)(a), renumber NR 10.001(9b) to (10m), amend NR 10.001(2s); and to create NR 10.001(1r), (7e), (10), (10c), (12), (21m), and (23e), 10.07(2) and (2m), 19.001(1m), (4), (4m), (6d), (6h), (12e) and (15m), and 19.60 relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.

WM-35-04 (E)

Analysis Prepared by Department of Natural Resources

**Statutory Authority:** Statutes that authorize the promulgation of this rule order include ss. 29.014 , 29.063, 29.335, 29.336, 227.11 and 227.24, Stats. These sections grant authority to the department to promulgate rules pertaining to hunting, feeding wildlife and management of Chronic Wasting Disease (CWD), subject to the conditions established for promulgating emergency rules under s. 227.24, Stats.

**Statutes Interpreted:** In promulgating this rule ss. 29.014 , 29.063, 29.335 and 29.336, Stats., have been interpreted as allowing the department the authority to establish restrictions on the feeding of wildlife for hunting and non-hunting purposes to prevent the spread and establishment of the CWD.

**Plain Language Rule Analysis:** Since the discovery of CWD in Wisconsin's free-roaming deer herd in February 2002, the Governor, the legislature, and the Natural Resources Board have given the Department of Natural Resources the directive to control the spread of CWD from its current known location and to eradicate the disease where it exists. Additionally, an Environmental Impact Statement completed in conjunction with last year's CWD rules, identified feeding of deer for hunting and non-hunting purposes as risks for the spread of CWD. This rule is similar to last year's CWD baiting and feeding emergency rule order, which banned baiting and feeding in 24 southern Wisconsin counties at greatest risk for CWD. Specifically, this rule establishes guidelines for feeding wildlife and feeding for hunting purposes (baiting).

**General provisions:** This rule provides definitions of terms used but not clearly defined in statute, such as animal part or animal by-product, feeding site, owner-occupied residence, business, bait and feed. Additionally, terms created specifically for these rules are defined and include definitions of "hunt over", platted land, small mammals, decoy, bird feeding device or structure and scent. Additionally, this rule prohibits baiting and feeding statewide, except for baiting as allowed for bear and deer hunting (as well as exceptions for trapping furbearers, scientific research, and other special permitted situations) in limited areas and feeding of deer and other wild animals and birds within specified guidelines.

Other general provisions include a prohibition on any feed material that contains animal parts or animal by-products. Elevated or automatic feeders that are designed to deposit feed to the ground are also prohibited.

**Deer Baiting:** Deer baiting is prohibited in any county where CWD eradication zones or herd reduction zones have been established in the county or a portion of the county; or a CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county; or if the county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997. Additional counties meeting these criteria can be included in the ban by secretary's order.

Outside this area, deer baiting is allowed within the parameters established by 2003 Wisconsin Act 240 and this rule. Bait or feed may be placed and used for hunting deer outside of the banned counties, except no person may place, use or hunt over bait or feed during the closed season for hunting deer. For the purpose of this rule the closed season will not include the Friday prior to the deer bow or gun seasons. So, hunters will be allowed to place legal feeding sites on the day prior to the opening of the deer bow and gun seasons. Deer hunters may not place, use or hunt over bait or feed in excess of 2 gallons at any feeding site. No person may place, use or hunt over more than 1 feeding site on each contiguous parcel of platted land that is less than 40 acres in size or on each full 40 acre quarter quarter section of platted land. Parcels or tracts of land that do not touch but are separated only by a town, county or state highway are considered contiguous. An individual may place no more than one bait site per 40 acres. Additionally, the rule clarifies that feeding sites may not be located within 100 yards of any other feeding site located on the same parcel of platted land.

**Bear Baiting:** Bear baiting rules are clarified and certain regulations are put in place to assure that the unintentional feeding or baiting of deer does not occur. Bear baits may only be placed, used or hunted over from April 15 through the end of the bear season. Baits for bear may not be in excess of 10 gallons at any feeding site. Additionally, bait must be totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevent deer from accessing the bait material. However, liquid scent used for hunting of bear or training bear dogs does not need to be enclosed.

**Feeding:** Feeding for deer and other animals is prohibited in any county where CWD eradication zones or herd reduction zones have been established in the county or a portion of the county; or a CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or if the county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

In other areas, no one may place more than 1 feeding site for each owner-occupied residence or business and the feeding site may not contain more than 2 gallons of feeding material. This site must also be within 50 yards of any owner occupied residence or business. The feeding site or feed material may not be located within 100 yards from a roadway, having a posted speed limit of 45 miles per hour or more.

The rule also clarifies that there are a number of circumstances where feeding is allowed statewide including:

1. Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. However, if the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.
2. Feeding of wild animals, other than deer, elk or bear, by hand if the feed is placed not more than 30 feet away from the person feeding, and the person feeding makes all reasonable attempts to clean up the unconsumed food before moving a distance greater than 30 feet from the deposited food.
3. Food deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.
4. Standing crops planted and left standing as wildlife food plots that may be used by wild animals.
5. The placement of plain water for drinking or for bird baths.
6. The use of scents, provided the material is not accessible for consumption by deer or elk.
7. Food or bait material placed or used for fish, reptiles, amphibians or arthropods, provided the material is not accessible to bear, deer or elk.

**Federal Regulatory Analysis:** Provided state rules and statutes do not relieve individuals from the restrictions, requirements and conditions of Federal statutes and regulations, regulation of hunting and trapping of wild animals has been delegated to state fish and wildlife agencies. Other than Federally listed migratory Game birds, no Federal regulations regarding feeding or baiting of other wild animals exist. Additionally, none of the proposed rules exceed the authorities granted the states in 50 CFR 10.

#### **State Regulatory Analysis:**

**Illinois:** Illinois instituted statewide restrictions on baiting and feeding shortly after the discovery of CWD in the wild deer population. The current administrative rule states that it is illegal to make certain materials available to deer including food, salt, mineral blocks, or other products meant for ingestion. Some exceptions do exist. It remains legal to:

- Place elevated feeders providing seed, grain, fruit, or suet to birds located within 100 feet of a dwelling devoted to human occupancy
- Incidentally feed deer within active livestock operations
- Leave standing crops as food plots for wildlife
- Bait deer in accordance with scientific permits and other permits issued by the Illinois Department of Natural Resources

**Iowa:** Iowa does not allow the baiting of deer for hunting purposes. Bait is defined as, "means grain, fruit, vegetables, nuts, hay, salt, mineral blocks or any other natural food materials, commercial products containing natural food materials or by-products of such materials placed in an area for the purpose of attracting wildlife. Bait does not include food placed during normal agricultural activities." Iowa does allow the recreational feeding of deer. Feeding deer for the purpose of recreational viewing is allowed in any amount.

*Michigan:* Michigan has special regulations related to baiting and feeding deer because of the influence of bovine tuberculosis. Baiting and feeding is strictly prohibited in seven northeastern counties including Alcona, Alpena, Crawford, Montmorency, Oscoda, Otsego, and Presque Isle. Throughout the remainder of the state baiting is allowed. However, the volume of bait scattered on the ground cannot exceed 2 gallons at any one hunting site at any time, statewide. Furthermore, baiting can only occur from October 1 to January 1. The bait material may be of any food type. The bait must be dispersed over a minimum of a 10-foot by 10-foot area. The bait can be scattered directly on the ground by any means.

Supplemental feeding of deer is prohibited in Michigan, except in Ontonagon, Houghton, Keweenaw, Baraga, Alger, Luce, and those portions of Marquette and Chippewa counties north of the T43N-T44N boundary line if certain conditions are met. Specifically, permission to feed must be granted from the landowner and a permit must be acquired. Furthermore, feeding may only occur from the Monday following January 1 to May 15 in any calendar year. Feed must be placed  $\frac{1}{4}$  mile or more from the nearest paved road unless otherwise stipulated in the permit. All feed must be placed at least 1 mile from cattle, goats, sheep, camelids, bison, swine, horses or captive cervids. Feed must also be placed at least 1 mile from wheat fields, potato fields, commercial fruit orchards, and commercial plantings of nursery stock. Feed must consist solely of grains and pelletized food materials containing no animal protein which is scattered or dispersed directly upon the ground to a depth which shall not exceed 3 inches. Finally, the person issued the permit must agree to assist the Michigan Department of Natural Resources in the collection of deer tissue for disease surveillance purposes.

*Minnesota:* Minnesota does not allow the baiting of deer for hunting purposes. Specifically, no person may place or use bait for the purpose of taking deer. "Bait" is defined as grain, fruit, vegetables, nuts, hay, or other food transported and placed for the purpose of attracting or enticing deer. This restriction does not apply to foods resulting from normal or accepted farming, forest management, wildlife management, orchard management, or similar land management activities. Liquid scents, salt, and minerals are not considered bait.

Minnesota does allow the recreational feeding of deer. Feeding deer for the purpose of recreational viewing is allowed in any amount. However, there are special provisions in place to make feeding illegal if CWD is ever detected in the wild deer population.

---

**Section 1. NR 10.001(1r) is created to read.**

NR 10.001(1r) "Animal part or animal by-product", for the purposes of ss. 29.336(3)(d) and (4)(d), Stats., means honey, bones, fish, meat, cheese, solid animal fat, animal carcass or parts of animal carcasses, but does not include liquid scents.

**Section 2. NR 10.001(2s) as renumbered by WM-02-04 is amended to read.**

NR 10.001(2s) ~~For "Bait", for the purposes of this chapter, "bait" means honey and any solid or nonliquid any material attractive placed or used to wildlife attract wild animals, including liquid scent and feed that is used for hunting purposes under s. 29.336(4), Stats.~~

**Section 3. NR 10.001(7e) is created to read.**

NR 10.001(7e) "Decoy" means the replica of an animal used to attract wild animals for the purpose of hunting, but does not include any food materials that can be consumed by any wild animal. For the purpose of this chapter, a decoy is not considered bait.

**Section 4. NR 10.001 (9b) to (10m) are renumbered (9c), (9g), (9n), 9(r), (9w), (10g), and (10n).**

**Section 5. NR 10.001(10) is created to read.**

NR 10.001(10) "Feed" means any material that may attract or be consumed by wild animals that is placed for any non-hunting purposes including recreational and supplemental feeding under ss. 29.335 and 29.336, Stats., but does not include plain drinking water.

**Section 6. NR 10.001(10c) is created to read.**

NR 10.001(10c) "Feeding site" means any location or area in which bait or feed is placed or deposited or that contains bait or feed material used to attract wild animals for recreational and supplemental feeding or for hunting purposes.

Section 7. NR 10.001(12) is created to read.

NR 10.001(12) "Hunt over" means hunting within 100 yards of any feeding site or sites where a person knows or reasonably should know that the area contains one or more feeding sites.

Section 8. NR 10.001(21m) is created to read.

NR 10.001(21m) "Platted land" means those lands that are shown in a published plat book where the owner or owners of record of all tracts or portions of the land are identical except for spouses qualifying as joint owners under the Wisconsin marital property law.

Section 9. NR 10.001(23e) is created to read.

NR 10.001(23e) "Scent" means any material, except honey, used to attract wild animals solely by its odor.

Section 10. NR 10.07(1)(g) is repealed.

Section 11. NR 10.07(2) is created to read.

NR 10.07(2) GENERAL BAITING REGULATIONS. (a) *General prohibition.* 1. No person may place, use or hunt over bait or feed material for the purpose of hunting wild animals or training dogs, except as provided in par. (b) or sub. (2m), or as authorized by a permit or license issued under s. 29.614(1) or 169.25(1)(a), Stats., or s. NR 12.06(11) or 12.10(1).

Note: s. 29.614, Stats., states: Scientific collector permit. (1) Application for a scientific collector permit shall be submitted to the department. The department may issue a scientific collector permit if the department determines that the applicant is a natural person and is engaged in a bona fide program leading to increased, useful scientific knowledge.

Note: s. 169.25, Stats., states: Scientific research license. (1) Issuance. (a) The department shall issue a scientific research license to any person who is engaged in a study or in research that the department determines will lead to increased, useful scientific knowledge and who files a proper application and who pays the applicable fee.

2. No person may hunt or train dogs over bait or a feeding site that is in violation of s. 29.336(4), Stats., this section, or in violation of the feeding prohibitions of s. NR 19.60, unless the area is completely free of bait or feed material for at least 10 consecutive days prior to hunting, pursuing animals or dog training.

Note: s. 29.336 (4) states that a person may feed deer for hunting purposes in counties not included in the rules promulgated under sub. (2) during any season open for hunting deer if all of the following apply:

- (a) Not more than 2 gallons of material are at the feeding site.
- (b) No feeding site is closer than 100 yards of another feeding site.
- (c) The person does not place more than 2 gallons of material in any area comprising 40 acres or less.
- (d) The material used to feed deer does not contain any animal part or animal byproduct.

Note: Removal of unlawfully placed bait or feed material does not preclude the issuance of a citation for the original placement of the unlawful baiting or feeding material.

(b) *General exceptions.* A person may place, use or hunt over bait or feed as follows:

1. For the purpose of hunting bear and bear dog training in compliance with sub. (2m).
2. For the purpose of hunting deer in compliance with sub. (2m).
3. Scent may be used for hunting game and except as allowed under subd. 4., the scent may not be placed or deposited in a manner that it is accessible for consumption by deer or elk, and scents shall be removed daily at the end of hunting hours for deer established in s. NR 10.06(5).
4. Two ounces or less of scent may be placed, used or deposited in any manner for hunting game and does not need to be removed daily at the end of hunting hours.
5. With the aid of material deposited by natural vegetation or material found solely as a result of normal agricultural or gardening practices.
6. With the aid of crops planted and left standing as wildlife food plots.
7. With the aid of feed material placed in a bird feeding structure or device in accordance with s. 29.337, Stats.
8. For the purpose of hunting coyote, fox, raccoon and unprotected species over bait or feed placed in compliance with this section or s. NR 19.60, if the hunting involves the release and use of trailing hounds.

Note: 29.337 Hunting and trapping by landowners and occupants. (1) The owner or occupant of any land, and any member of his or her family, may hunt or trap beaver, coyotes, foxes, raccoons, woodchucks, rabbits, and squirrels on the land without a license issued under this chapter or ch. 169 at any time, except as follows:

(a) An owner or occupant may not hunt any of these wild animals during the period of 24 hours before the time for commencement of the deer hunting season in any area where an open season for hunting deer with firearms is established.

(b) Such persons may not hunt coyotes during an open season for hunting deer with firearms in an area that is closed by the department by rule to coyote hunting.

Note: Placing or using bait for purposes of trapping is regulated by ss. NR 10.13(1)(b), 19.27, 19.275 and not this subsection, baiting for migratory birds is regulated by s. NR 10.12(1)(h) and not this subsection. This subsection does not prohibit hunting with the use of decoys except as already prohibited under ss. NR 10.12(1)(f) and (g) and 10.25(4)(d).

**Section 12. NR 10.07(2m) is created to read.**

NR 10.07(2m) BEAR AND DEER BAITING REGULATIONS. (a) *Affected area.* This section applies to deer and bear hunting statewide, except for baiting deer in the areas described in par. (b) where baiting for deer is prohibited.

(b) *Excluded area.* Deer baiting and feeding is prohibited in entire counties where:

1. CWD eradication zones or herd reduction zones have been established in the county or a portion of the county, or
2. A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or
3. The county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

(c) *Inclusion of additional counties.* 1. The department may add additional counties under par. (b) if they meet the criteria established in par. (b)1., 2. or 3.

2. The prohibitions and exemptions in this subsection shall become effective upon issuance of an order and publication in the official state newspaper. In addition, a notice of the order shall be provided to newspapers, legislators, and hunting license outlets in the area affected.

(d) *Bear hunting and bear dog training.* Bait or feed may be placed and used for the purpose of hunting bear or training bear dogs, except no person may place, use or hunt over bait or feed:

1. Beginning the day after the bear season closes and continuing through the following April 14<sup>th</sup>.
2. In excess of 10 gallons of bait or feed at any feeding site.
3. That is not totally enclosed in a hollow log, a hole in the ground or stump which is capped with logs, rocks or other naturally occurring and unprocessed substances which prevents deer from accessing the material. Liquid scent used for hunting of bear or training bear dogs does not need to be enclosed.
4. Unless, when the bait or feeding site is checked or re-baited, all bait that has been uncovered is again enclosed and made inaccessible to deer in accordance with subd. 3.

(e) *Deer hunting.* Bait or feed may be placed and used for hunting deer outside of the counties described in par. (b), except no person may place, use or hunt over bait or feed:

1. During the closed season for hunting deer. For the purpose of this paragraph, the open season for hunting of deer includes the 24-hour period prior to the deer seasons established in s. NR 10.01(3)(e) and (es).

Note: The 24-hour period refers to the period from 12:00am to 11:59 pm on the day immediately before the season.

2. In excess of 2 gallons of bait or feed at any feeding site.

3. At more than one feeding site on each contiguous parcel of platted land that is less than 40 acres in size or on each full quarter quarter section of platted land. Parcels or tracts of land that do not touch but are separated only by a town, county or state highway are considered contiguous.

4. At any feeding site that is located within 100 yards of any other feeding site located on the same parcel of platted land.

5. If the person doing the hunting is within 100 yards of more than 2 gallons of bait or feed located on the same parcel of platted land.

(f) *Additional prohibitions.* For bear hunting and bear dog training and for deer hunting outside of the counties described in par. (b), no person may place, use or hunt over bait or feed that:

1. Contains or is contained within metal, paper, plastic, glass, wood or other similar processed materials. This subdivision does not apply to bait or feed placed in hollow logs or stumps or to scent materials.
2. Contains any animal part or animal by-product.

3. Is located within 50 yards of any trail, road or campsite used by the public, or within 100 yards from a roadway, as defined in s. 340.01 (54), Stats., having a posted speed limit of 45 miles per hour or more.
4. Is contained in or deposited by an automatic or elevated feeder that is designed to deposit bait or feed on the ground.

Note: s. 340.01(54), Stats., "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively.

(g) *Valid approval required.* 1. No person may hunt over bait or feed material placed for bear without possessing a valid unused class A bear license and carcass tag.

2. No person may hunt over bait or feed material placed for deer without possessing an appropriate valid unused archery or gun deer license and carcass tag.

Note: Removal of unlawfully placed bait or feed material does not preclude the issuance of a citation for the original placement of the unlawful baiting or feeding material.

**Section 13. NR 10.11(1)(a) is repealed.**

**Section 14. NR 19.001(1m) is created to read.**

NR 19.001(1m) "Animal part or animal by-product" has the meaning given in s. NR 10.001(1r).

**Section 15. NR 19.001(4) is created to read.**

NR 19.001(4) "Bird feeding devices and structures" means any device or structure that has the primary purpose of attracting or feeding birds or small mammals.

**Section 16. NR 19.001(4m) is created to read**

NR 19.001(4m) "Business" means a building used primarily to carry out commercial activities at which regular scheduled business hours are maintained for employees and the public such as restaurants and retail stores, but does not include associated lands, warehouses, outbuildings or other buildings that are not normally open to the public.

**Section 17. NR 19.001(6d) is created to read.**

NR 19.001(6d) "Feed" has the meaning given in s. NR 10.001(10).

**Section 18. NR 19.001(6h) is created to read.**

NR 19.001(6h) "Feeding site" has the meaning given in s. NR 10.001(10c).

**Section 19. NR 19.001(12e) is created to read.**

NR 19.001(12e) "Owner-occupied residence" for the purpose of this section means a dwelling or building devoted to human occupancy when used while feeding deer as a residence by the owner, members of the owners immediate family, or when used as a residence by individuals as a rental property while feeding deer.

**Section 20. NR 19.001(15m) is created to read.**

NR 19.001(15m) "Small mammals" mean all mammals other than bear, deer and elk.

**Section 21. NR 19.60 is created to read.**

**NR 19.60 Feeding of wild animals.** (1) GENERAL PROHIBITIONS. (a) No person may place, deposit or allow the placement of any material to feed or attract wild animals for non-hunting purposes including recreational and supplemental feeding, except as provided in sub. (2) or (3), or as specifically authorized in a permit or license issued under s. 29.614(1) or 169.25(1)(a), Stats., or s. NR 12.06(11) or 12.10(1).

Note: s. 29.614, Stats., states: Scientific collector permit. (1) Application for a scientific collector permit shall be submitted to the department. The department may issue a scientific collector permit if the department determines that the applicant is a natural person and is engaged in a bona fide program leading to increased, useful scientific knowledge.



Note: s. 169.25, Stats., states: Scientific research license. (1) Issuance. (a) The department shall issue a scientific research license to any person who is engaged in a study or in research that the department determines will lead to increased, useful scientific knowledge and who files a proper application and who pays the applicable fee.

(b) Any person placing feed to attract wild animals in violation of this section or s. NR 10.07(2) or (2m) shall remove all feed or other material illegally placed or deposited when ordered by the department to do so.

(c) Landowners, lessees or occupants of any property where feed or other material in violation of this section or s. NR 10.07(2) or (2m) is present, shall remove all feed or other material illegally placed or deposited upon notification by the department of the illegal activity if not otherwise removed in accordance with par. (b).

(d) No person may use or place feed in an automatic or elevated feeders that is designed to deposit feed on the ground.

(2) FEEDING DEER AUTHORIZED. (a) *Affected area.* This subsection applies statewide, except for those counties where deer baiting and feeding is prohibited under par. (b).

(b) *Excluded area.* Deer baiting and feeding is prohibited in entire counties where:

1. CWD eradication zones or herd reduction zones have been established in the county or a portion of the county, or
2. A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county, or
3. The county or portion of the county is within a 10 mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

(c) *Inclusion of additional counties.* 1. The department may add additional counties under par. (b) if they meet the criteria established in par. (b)1., 2. or 3.

2. The prohibitions and exemptions in this subsection shall become effective upon issuance of an order and publication in the official state newspaper. In addition, a notice of the order shall be provided to newspapers, legislators, and hunting license outlets in the area affected.

(d) *Deer feeding.* A person may place or deposit material to feed or attract wild deer for recreational and supplemental feeding purposes outside of the counties where deer feeding is prohibited under par. (b), but may not place or allow the placement of any feed material:

1. At more than one feeding site for each owner-occupied residence or business.
2. In excess of 2 gallons of feeding material within 50 yards of any owner occupied residence or business.
3. More than 50 yards from an owner occupied residence or business.
4. Within 100 yards from a roadway, as defined in s. 340.01 (54), Stats., having a posted speed limit of 45 miles per hour or more.

Note: s. 340.01(54), Stats., "Roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively.

5. That contains any animal part or animal by-product.
6. Without the approval of the owner of the owner-occupied residence or business.

(3) EXCEPTIONS. (a) This section does not prohibit any of the following activities:

1. Material placed solely for the purpose of attracting and feeding wild birds and small mammals when placed in bird feeding devices and structures at a sufficient height or design to prevent access by deer and only when the structures and devices are no further than 50 yards from a dwelling devoted to human occupancy. If the department determines that wild deer are utilizing bird feeding devices or structures, the devices or structures shall be enclosed or elevated higher to prevent access by deer.
2. Feeding of wild animals, other than deer, elk or bear, by hand is allowed if:
  - a. Feed is placed not more than 30 feet away from the person feeding, and
  - b. The person feeding makes all reasonable attempts to clean up the unconsumed feed before moving a distance greater than 30 feet from the deposited feed.
3. Feed is deposited by natural vegetation or found solely as a result of normal agricultural or gardening practices.
4. Standing crops planted and left standing as wildlife food plots that may be used by wild animals.
5. Feed material placed for deer or bear hunting or bear dog training as authorized under s. NR 10.07(2m).

6. Feed material placed for trapping as specified in s. NR 10.13.
7. The use of decoys for non-hunting purposes.
8. The placement of plain water for drinking or for bird baths.
9. The use of scents, provided the material is not accessible for consumption by deer or elk or scent placed in compliance with s. NR 10.07(2)(b)4.
10. Feed or bait material placed or used for fish, reptiles, amphibians or arthropods, provided the material is not accessible to bear, deer or elk.
11. Feeding of deer as authorized under sub. (2).

Note: These feeding rules do not apply to captive wild animals held and licensed under ch. 169, Stats.

**Section 22. Finding.** The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule - making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD, bovine tuberculosis and other forms of transmissible diseases pose a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses. The state legislature has also delegated to the department rule - making authority in 2003 Wisconsin Act 240 to regulate feeding of wild animals for non-hunting purposes including recreational and supplemental feeding. These restrictions on deer baiting and feeding need to be implemented through the emergency rule procedure to help control and prevent the spread of CWD, bovine tuberculosis and other forms of transmissible diseases in Wisconsin's deer herd.

**Section 23. Effective date.** The rules shall take effect upon publication in the official state newspaper.

**Section 24. Board adoption.** The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on May 26, 2004.

Dated at Madison, Wisconsin

May 28, 2004

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By

Scott Hassett

Scott Hassett, Secretary

(SEAL)

BEFORE THE STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

In the matter of a Secretary's Order pertaining to the prohibition on deer baiting and feeding in select counties to prevent the further spread of Chronic Wasting Disease and Bovine Tuberculosis.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

**FINDINGS OF FACT**

Adams, Calumet, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, Lafayette, Manitowoc, Marquette, Milwaukee, Portage, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Waukesha and, Waushara Counties have been found to meet one of the following criteria:

1. CWD eradication zones or herd reduction zones have been established in the county or a portion of the county.
2. A CWD or bovine tuberculosis positive captive or free-roaming, domestic or wild animal has been confirmed after December 31, 1997 from the county.
3. The county or portion of the county is within a 10-mile radius of a captive or free-roaming, domestic or wild animal that has been tested and confirmed to be positive for CWD or bovine tuberculosis after December 31, 1997.

**CONCLUSION OF LAW**

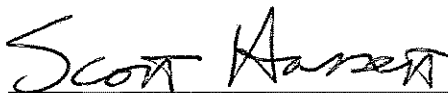
According to ss. NR 10.07(2m) and NR 19.60(2) Wis. Adm. Code (created under Department of Natural Resources Rule Order Number WM-35-04(E)) the department may, upon making the above findings, prohibit the practices of deer baiting and feeding in Adams, Calumet, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, Lafayette, Manitowoc, Marquette, Milwaukee, Portage, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Waukesha and, Waushara Counties.

**ORDER**

Notwithstanding all other provisions of Ch. NR 10, Wis. Adm. Code, which remain in effect, baiting and feeding of deer shall be regulated by ss. NR 10.07(2m)(b) and NR 19.60(2)(b) Wis. Adm. Code, in Adams, Calumet, Columbia, Crawford, Dane, Dodge, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, Lafayette, Manitowoc, Marquette, Milwaukee, Portage, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Waukesha and, Waushara Counties.

Dated at Madison, Wisconsin, 6-15-04

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL  
RESOURCES



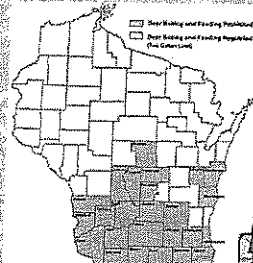
Scott Hassett, Secretary

## Baiting & Feeding Rules for Counties where Baiting and Feeding for Deer is Allowed

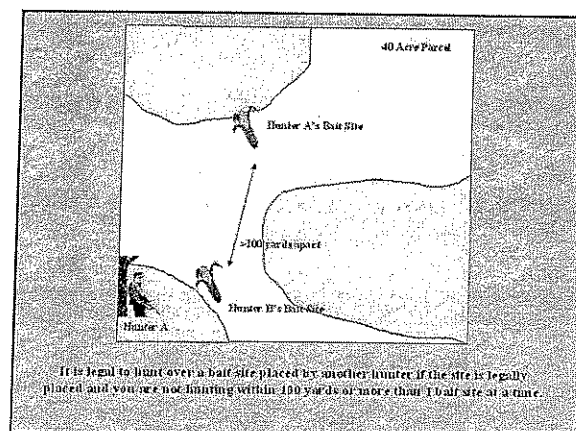
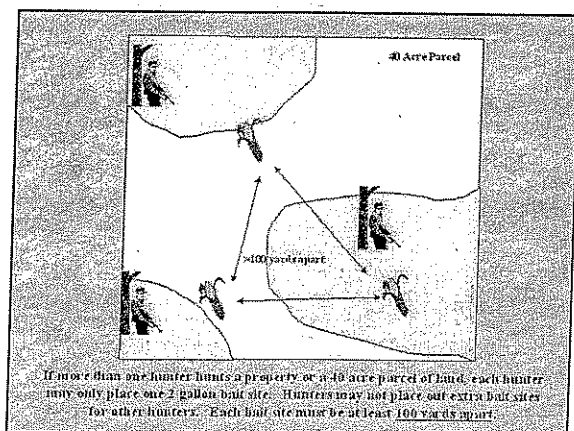
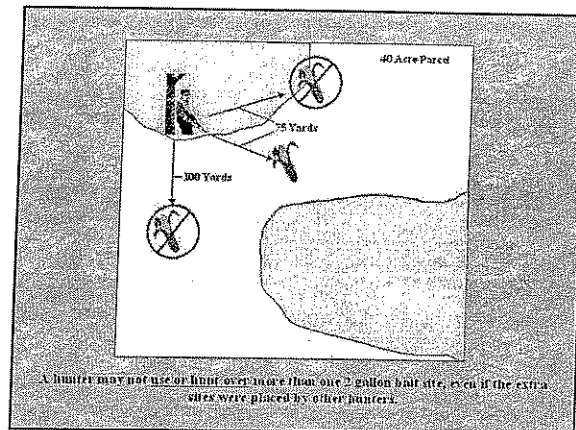
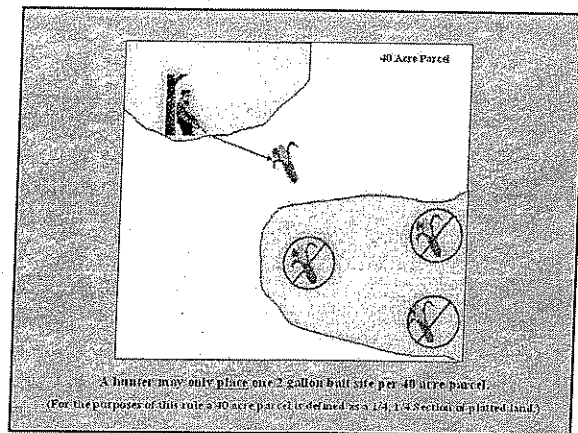
### Summary of Deer Baiting & Feeding Regulations:

→ You may not bait or feed deer for hunting OR for non-hunting purposes in the shaded counties.

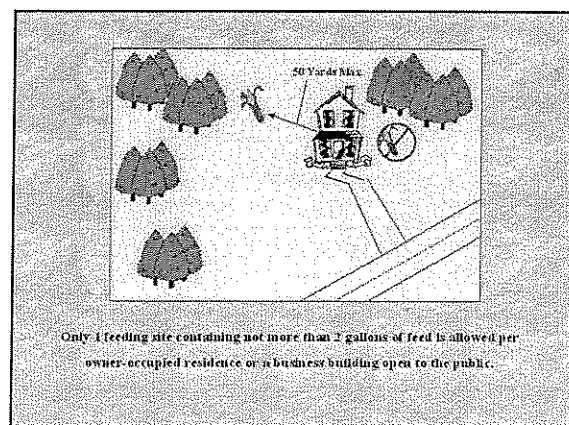
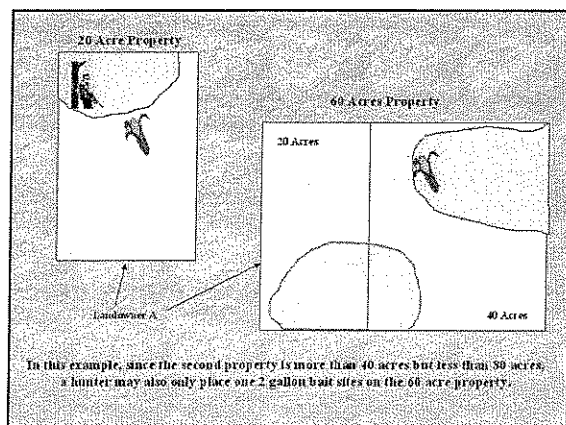
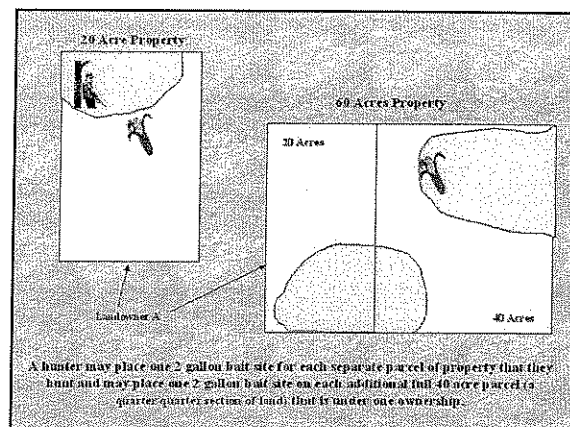
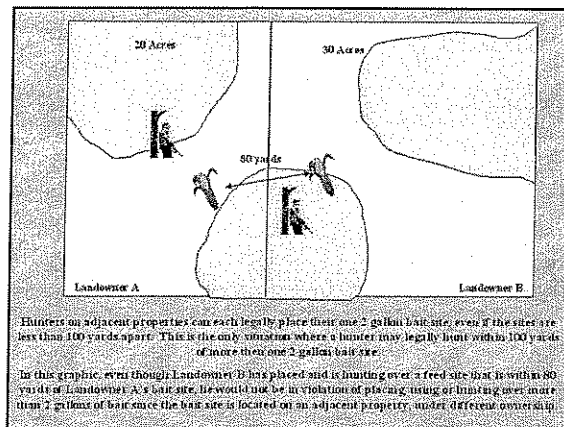
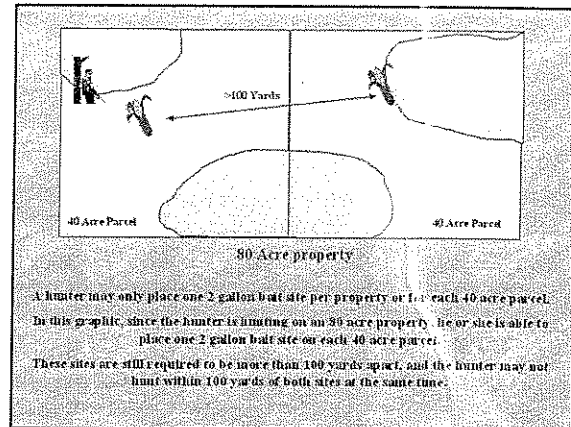
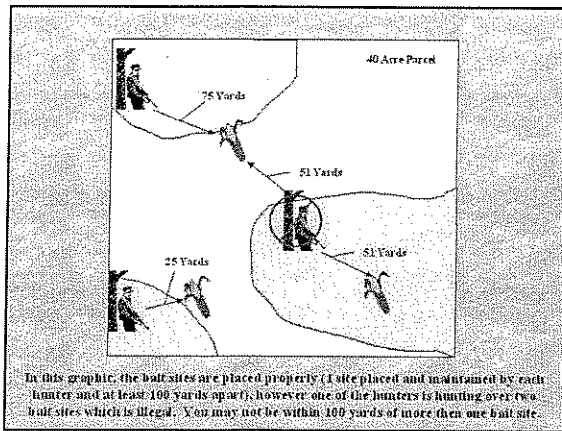
→ In the non-shaded counties you may not place, use or hunt over more than 2 gallons of bait or feed for hunting OR non-hunting purposes.

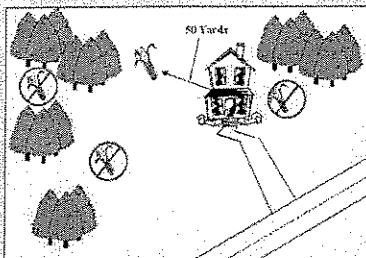


The following slides depict some of the various baiting and feeding scenarios to help you understand the new rules pertaining to deer baiting and feeding regulations in counties where these practices are allowed.

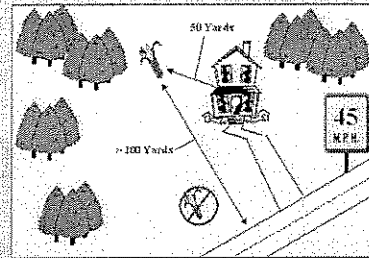


To see this presentation in a full-page format, along with additional information on baiting and feeding, please go to: <http://dnr.wi.gov/org/land/wildlife/bait.htm>

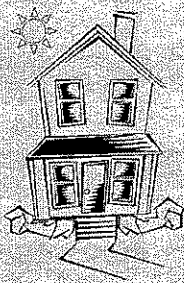




In addition, the feed site must be located within 50 yards of an owner-occupied residence or a business building open to the public.



Finally, it is not legal to place a feeding site within 100 yards of a roadway that has a Posted Speed Limit of 45 mph or more.



\* An owner-occupied residence means a dwelling devoted to human occupancy that is used as a residence by the owner, members of the owner's immediate family, or when used as a residence by individuals as a rental property, while feeding deer.

\* So, a seasonal home or cabin, not used as a primary residence, would be considered an owner-occupied residence only when the cabin or home is being used as a residence.

\* In other words, while you are residing in the cabin you can feed deer, when you are not residing in the cabin you may not feed the deer.